

SENATE BILL No. 176

February 6, 2007, Introduced by Senator CHERRY and referred to the Committee on Appropriations.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 20161 (MCL 333.20161), as amended by 2005 PA
187.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20161. (1) The department shall assess fees and other
2 assessments for health facility and agency licenses and
3 certificates of need on an annual basis as provided in this
4 article. Except as otherwise provided in this article, fees and
5 assessments shall be paid in accordance with the following
6 schedule:

1 (a) Freestanding surgical
2 outpatient facilities.....\$238.00 per facility.
3 (b) Hospitals.....\$8.28 per licensed bed.
4 (c) Nursing homes, county
5 medical care facilities, and
6 hospital long-term care units.....\$2.20 per licensed bed.
7 (d) Homes for the aged.....\$6.27 per licensed bed.
8 (e) Clinical laboratories.....\$475.00 per laboratory.
9 (f) Hospice residences.....\$200.00 per license
10 survey; and \$20.00 per
11 licensed bed.
12 (g) Subject to subsection
13 (13), quality assurance assessment
14 for nursing homes and hospital
15 long-term care units.....an amount resulting
16 in not more than 6%
17 of total industry
18 revenues.
19 (h) Subject to subsection
20 (14), quality assurance assessment
21 for hospitals.....at a fixed or variable
22 rate that generates
23 funds not more than the
24 maximum allowable under
25 the federal matching
26 requirements, after
27 consideration for the
28 amounts in subsection
29 (14) (a) and (i).
30 (2) If a hospital requests the department to conduct a

1 certification survey for purposes of title XVIII or title XIX of
2 the social security act, the hospital shall pay a license fee
3 surcharge of \$23.00 per bed. As used in this subsection, "title
4 XVIII" and "title XIX" mean those terms as defined in section
5 20155.

6 (3) The base fee for a certificate of need is \$1,500.00 for
7 each application. For a project requiring a projected capital
8 expenditure of more than \$500,000.00 but less than \$4,000,000.00,
9 an additional fee of \$4,000.00 shall be added to the base fee.
10 For a project requiring a projected capital expenditure of
11 \$4,000,000.00 or more, an additional fee of \$7,000.00 shall be
12 added to the base fee. The department of community health shall
13 use the fees collected under this subsection only to fund the
14 certificate of need program. Funds remaining in the certificate
15 of need program at the end of the fiscal year shall not lapse to
16 the general fund but shall remain available to fund the
17 certificate of need program in subsequent years.

18 (4) If licensure is for more than 1 year, the fees described
19 in subsection (1) are multiplied by the number of years for which
20 the license is issued, and the total amount of the fees shall be
21 collected in the year in which the license is issued.

22 (5) Fees described in this section are payable to the
23 department at the time an application for a license, permit, or
24 certificate is submitted. If an application for a license,
25 permit, or certificate is denied or if a license, permit, or
26 certificate is revoked before its expiration date, the department
27 shall not refund fees paid to the department.

1 (6) The fee for a provisional license or temporary permit is
2 the same as for a license. A license may be issued at the
3 expiration date of a temporary permit without an additional fee
4 for the balance of the period for which the fee was paid if the
5 requirements for licensure are met.

6 (7) The department may charge a fee to recover the cost of
7 purchase or production and distribution of proficiency evaluation
8 samples that are supplied to clinical laboratories pursuant to
9 section 20521(3).

10 (8) In addition to the fees imposed under subsection (1), a
11 clinical laboratory shall submit a fee of \$25.00 to the
12 department for each reissuance during the licensure period of the
13 clinical laboratory's license.

14 (9) The cost of licensure activities shall be supported by
15 license fees.

16 (10) The application fee for a waiver under section 21564 is
17 \$200.00 plus \$40.00 per hour for the professional services and
18 travel expenses directly related to processing the application.
19 The travel expenses shall be calculated in accordance with the
20 state standardized travel regulations of the department of
21 management and budget in effect at the time of the travel.

22 (11) An applicant for licensure or renewal of licensure
23 under part 209 shall pay the applicable fees set forth in part
24 209.

25 (12) Except as otherwise provided in this section, the fees
26 and assessments collected under this section shall be deposited
27 in the state treasury, to the credit of the general fund.

1 (13) The quality assurance assessment collected under
2 subsection (1)(g) and all federal matching funds attributed to
3 that assessment shall be used only for the following purposes and
4 under the following specific circumstances:

5 (a) The quality assurance assessment and all federal
6 matching funds attributed to that assessment shall be used to
7 finance medicaid nursing home reimbursement payments. Only
8 licensed nursing homes and hospital long-term care units that are
9 assessed the quality assurance assessment and participate in the
10 medicaid program are eligible for increased per diem medicaid
11 reimbursement rates under this subdivision.

12 (b) Except as otherwise provided under subdivision (c),
13 beginning October 1, 2005, the quality assurance assessment is
14 based on the total number of patient days of care each nursing
15 home and hospital long-term care unit provided to nonmedicare
16 patients within the immediately preceding year and shall be
17 assessed at a uniform rate on October 1, 2005 and subsequently on
18 October 1 of each following year, and is payable on a quarterly
19 basis, the first payment due 90 days after the date the
20 assessment is assessed.

21 (c) Within 30 days after ~~the effective date of the~~
22 ~~amendatory act that added this subdivision~~ **SEPTEMBER 30, 2005,**
23 the department shall submit an application to the federal centers
24 for medicare and medicaid services to request a waiver pursuant
25 to 42 CFR 433.68(e) to implement this subdivision as follows:

26 (i) If the waiver is approved, the quality assurance
27 assessment rate for a nursing home or hospital long-term care

1 unit with less than 40 licensed beds or with the maximum number,
2 or more than the maximum number, of licensed beds necessary to
3 secure federal approval of the application is \$2.00 per
4 nonmedicare patient day of care provided within the immediately
5 preceding year or a rate as otherwise altered on the application
6 for the waiver to obtain federal approval. If the waiver is
7 approved, for all other nursing homes and long-term care units
8 the quality assurance assessment rate is to be calculated by
9 dividing the total statewide maximum allowable assessment
10 permitted under subsection (1)(g) less the total amount to be
11 paid by the nursing homes and long-term care units with less than
12 40 or with the maximum number, or more than the maximum number,
13 of licensed beds necessary to secure federal approval of the
14 application by the total number of nonmedicare patient days of
15 care provided within the immediately preceding year by those
16 nursing homes and long-term care units with more than 39, but
17 less than the maximum number of licensed beds necessary to secure
18 federal approval. The quality assurance assessment, as provided
19 under this subparagraph, shall be assessed in the first quarter
20 after federal approval of the waiver and shall be subsequently
21 assessed on October 1 of each following year, and is payable on a
22 quarterly basis, the first payment due 90 days after the date the
23 assessment is assessed.

24 (ii) If the waiver is approved, continuing care retirement
25 centers are exempt from the quality assurance assessment if the
26 continuing care retirement center requires each center resident
27 to provide an initial life interest payment of \$150,000.00, on

1 average, per resident to ensure payment for that resident's
2 residency and services and the continuing care retirement center
3 utilizes all of the initial life interest payment before the
4 resident becomes eligible for medical assistance under the
5 state's medicaid plan. As used in this subparagraph, "continuing
6 care retirement center" means a nursing care facility that
7 provides independent living services, assisted living services,
8 and nursing care and medical treatment services, in a campus-like
9 setting that has shared facilities or common areas, or both.

10 (d) Beginning October 1, 2007, the department shall no
11 longer assess or collect the quality assurance assessment or
12 apply for federal matching funds.

13 (e) Beginning May 10, 2002, the department of community
14 health shall increase the per diem nursing home medicaid
15 reimbursement rates for the balance of that year. For each
16 subsequent year in which the quality assurance assessment is
17 assessed and collected, the department of community health shall
18 maintain the medicaid nursing home reimbursement payment increase
19 financed by the quality assurance assessment.

20 (f) The department of community health shall implement this
21 section in a manner that complies with federal requirements
22 necessary to assure that the quality assurance assessment
23 qualifies for federal matching funds.

24 (g) If a nursing home or a hospital long-term care unit
25 fails to pay the assessment required by subsection (1)(g), the
26 department of community health may assess the nursing home or
27 hospital long-term care unit a penalty of 5% of the assessment

1 for each month that the assessment and penalty are not paid up to
2 a maximum of 50% of the assessment. The department of community
3 health may also refer for collection to the department of
4 treasury past due amounts consistent with section 13 of 1941 PA
5 122, MCL 205.13.

6 (h) The medicaid nursing home quality assurance assessment
7 fund is established in the state treasury. The department of
8 community health shall deposit the revenue raised through the
9 quality assurance assessment with the state treasurer for deposit
10 in the medicaid nursing home quality assurance assessment fund.

11 (i) The department of community health shall not implement
12 this subsection in a manner that conflicts with 42 USC 1396b(w).

13 (j) The quality assurance assessment collected under
14 subsection (1)(g) shall be prorated on a quarterly basis for any
15 licensed beds added to or subtracted from a nursing home or
16 hospital long-term care unit since the immediately preceding July
17 1. Any adjustments in payments are due on the next quarterly
18 installment due date.

19 (k) In each fiscal year governed by this subsection,
20 medicaid reimbursement rates shall not be reduced below the
21 medicaid reimbursement rates in effect on April 1, 2002 as a
22 direct result of the quality assurance assessment collected under
23 subsection (1)(g).

24 (l) In fiscal year 2005-2006, \$39,900,000.00 of the quality
25 assurance assessment collected pursuant to subsection (1)(g)
26 shall be appropriated to the department of community health to
27 support medicaid expenditures for long-term care services. These

1 funds shall offset an identical amount of general fund/general
2 purpose revenue originally appropriated for that purpose.

3 (14) The quality assurance dedication is an earmarked
4 assessment collected under subsection (1)(h). That assessment and
5 all federal matching funds attributed to that assessment shall be
6 used only for the following purpose and under the following
7 specific circumstances:

8 (a) To maintain the increased medicaid reimbursement rate
9 increases as provided for in subdivision (c).

10 (b) The quality assurance assessment shall be assessed on
11 all net patient revenue, before deduction of expenses, less
12 medicare net revenue, as reported in the most recently available
13 medicare cost report and is payable on a quarterly basis, the
14 first payment due 90 days after the date the assessment is
15 assessed. As used in this subdivision, "medicare net revenue"
16 includes medicare payments and amounts collected for coinsurance
17 and deductibles.

18 (c) Beginning October 1, 2002, the department of community
19 health shall increase the hospital medicaid reimbursement rates
20 for the balance of that year. For each subsequent year in which
21 the quality assurance assessment is assessed and collected, the
22 department of community health shall maintain the hospital
23 medicaid reimbursement rate increase financed by the quality
24 assurance assessments.

25 (d) The department of community health shall implement this
26 section in a manner that complies with federal requirements
27 necessary to assure that the quality assurance assessment

1 qualifies for federal matching funds.

2 (e) If a hospital fails to pay the assessment required by
3 subsection (1)(h), the department of community health may assess
4 the hospital a penalty of 5% of the assessment for each month
5 that the assessment and penalty are not paid up to a maximum of
6 50% of the assessment. The department of community health may
7 also refer for collection to the department of treasury past due
8 amounts consistent with section 13 of 1941 PA 122, MCL 205.13.

9 (f) The hospital quality assurance assessment fund is
10 established in the state treasury. The department of community
11 health shall deposit the revenue raised through the quality
12 assurance assessment with the state treasurer for deposit in the
13 hospital quality assurance assessment fund.

14 (g) In each fiscal year governed by this subsection, the
15 quality assurance assessment shall only be collected and expended
16 if medicaid hospital inpatient DRG and outpatient reimbursement
17 rates and disproportionate share hospital and graduate medical
18 education payments are not below the level of rates and payments
19 in effect on April 1, 2002 as a direct result of the quality
20 assurance assessment collected under subsection (1)(h), except as
21 provided in subdivision (h).

22 (h) The quality assurance assessment collected under
23 subsection (1)(h) shall no longer be assessed or collected after
24 September 30, 2008, or in the event that the quality assurance
25 assessment is not eligible for federal matching funds. Any
26 portion of the quality assurance assessment collected from a
27 hospital that is not eligible for federal matching funds shall be

1 returned to the hospital.

2 (i) In **EACH** fiscal year, ~~2005-2006,~~ \$42,400,000.00 of the
3 quality assurance assessment collected pursuant to subsection
4 (1)(h) shall be appropriated to the department of community
5 health to support medicaid expenditures for hospital services and
6 therapy. These funds shall offset an identical amount of general
7 fund/general purpose revenue originally appropriated for that
8 purpose.

9 (15) The quality assurance assessment provided for under
10 this section is a tax that is levied on a health facility or
11 agency.

12 (16) As used in this section, "medicaid" means that term as
13 defined in section 22207.